

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the City of Pleasanton for an Order authorizing construction of a crossing at separated grades between Valley Avenue and the tracks of the Union Pacific Railroad, sometimes referred to as the "Valley Avenue Extension Underpass, " PUC No.4-40.43B.

Application 01-05-045
(Filed May 23, 2001)

O P I N I O N**Summary**

The City of Pleasanton (City) requests authority to construct a railroad underpass at separated grade on Valley Avenue Extension at the tracks of the Union Pacific Railroad (UPRR) and construct a temporary shoofly track as part of the grade-separation project in Pleasanton, Alameda County. The grade-separated crossing will be referred to as CPUC Crossing No. 004-40.43-B.

Discussion

The City is entering into a project to construct a grade separation that will carry Valley Avenue Extension beneath the UPRR single-track main line at approximately milepost 40.43. The proposed underpass structure will be a prestressed concrete structure. The total length of the underpass will be about 80 feet from abutment to abutment. The underpass will consist of two 12-foot vehicular lanes, two 7-foot shoulders, and one 8-foot bicycle path-sidewalk. A single-track structure is proposed with a width of superstructure measured

between faces of railing of 17 feet. A map of the project vicinity is set forth in Appendix A.

The Valley Avenue Extension is planned as a major east-west two-lane collector located parallel to and 0.6 miles south of Bernal Avenue underpass, which was constructed in 1984. The new underpass will provide traffic circulation for planned residential and office park developments to be built on the east and west side of the railroad corridor, and safe access for pupils attending the Hearst Elementary School located just east of the railroad tracks. The new underpass will help provide residents of new subdivisions, school children, emergency vehicles, and other traffic in the rapidly growing southerly portion on the Pleasanton area, another means to travel from one side of the UPRR tracks to the other without crossing the tracks.

As part of the project, a shoofly track will be constructed to allow trains to bypass the area during construction. Upon completion of the project, the shoofly track will be removed.

The City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000 et seq. After preparation and review of an Environmental Impact Report (EIR), on August 29, 2000, the City filed a Notice of Determination with the County of Alameda and the State Office of Planning and Research which states that the project will have a significant effect on the environment, and that mitigation measures were made a condition of approval of the project.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project within its area of expertise that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must

consider the lead agency's EIR or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities that must be conducted by a responsible agency are contained in CEQA Guidelines Section 15096.

The Commission's Rail Safety and Carrier Division (RSCD), Rail Crossings Engineering Section reviewed the portion of the lead agency's environmental documents. Safety and security, transportation and noise are within the scope of the Commission's permitting process.

As part of the Final EIR, an impact summary was prepared with principal mitigation measures. Impacts on the environment include potentials for flooding, adverse water conditions, excess traffic, generating dust, increases in regional emissions and noise levels, and removal of trees. The mitigation measures include, but are not limited to, construction of channels and culverts, water conservation measures, traffic improvements and controls, dust abatement, reduction of vehicular traffic, construction of sound walls and noise mitigation features, and development of a tree preservation plan.

Project traffic would contribute to traffic volumes at several freeway ramps and streets within the area resulting in a reduction in the level of service. Mitigation measures include improving the level of service by signalization and widening of the roadways.

Outdoor noise impacts were identified that would occur along the railroad tracks which would exceed the threshold at which controls are required to reduce interior noise levels. Mitigation measures were adopted in which noise levels will have a less-than-significant impact on the environment. The mitigation measures include a combination of soundwall and construction

techniques, such as sound-rated windows and walls, in residential units near the railway.

Addressed in the impact summary was the potential development of any central or east parcel residential use that would occur prior to the proposed grade separation. Access to and from these developments would create the potential for pedestrian conflicts, especially involving school children with the UPRR tracks. If residential development occurs in these parcels prior to the completion of the grade separation, as a mitigation measure, fencing will be constructed along the UPRR tracks through the project site to reduce the likelihood that school children will cross the tracks to get to the existing or proposed schools along Case Avenue.

The EIR identified two transportation and two noise related environmental impacts that could not be migrated to less-than-significant levels. The transportation impacts will contribute to cumulative traffic growth and freeway traffic volumes that exceed acceptable levels on the regional transportation system. The EIR identified the proposed residential development in the west parcel, south of Highway 680, and the open space area on the east parcel, as areas where the noise levels could not be mitigated below less-than-significant levels. The City Council adopted a Statement of Overriding Considerations (SOC) with respect to the significant and unavoidable adverse environmental impacts identified in the EIR. In adopting the SOC, the City Council noted the following benefits from the proposed project that would outweigh any unavoidable significant effects on the environment:

1. The project will set aside land for recreational, institutional, public, and open spaces uses, affordable housing and education facilities.

2. The developer will pay school fees in an amount greater than required by law, expand bicycle and pedestrian trails, pay for and/or finance regional and local infrastructure projects, dedicate parks, and provide funds to improve parks.
3. Benefits over the Alameda County land plan include the construction of natural appearing landscape noise attenuation berms, the oak-studded southern knoll will be retained as a neighborhood/special park, the Valley Avenue underpass will address visual and noise concerns, and “Green Building” concepts will be utilized to reduce electricity usage and increase the usage of recycled building materials.
4. Incorporates planning concepts to create an integrated, high quality development that provides an array of neighborhood land uses in the central parcel
5. Dedication of a 1-acre fire station site that will enhance the City’s Fire Department response time to South Pleasanton.

The Rail Crossing Engineering Section staff inspected the site of the proposed project. After reviewing the need for, and safety of, the proposed crossing, the staff recommends that the requested authority sought by the City be granted for a period of three years.

With respect to the transportation, noise, and safety impacts identified above, the Commission finds that the City adopted feasible mitigation measures where possible, to lessen the significant environmental impacts to less-than-significant levels. We will adopt the City’s findings and mitigation measure for purposes of our approval.

With respect to the SOC, we find that the City Council enumerated several significant benefits associated with the proposed project which appeared, on balance, to reasonably override the unavoidable impacts. Therefore, we accept and adopt the findings of the SOC for purpose of our approval.

Application 01-05-045 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a public highway across a railroad.

In Resolution ALJ 176-3065 dated June 14, 2001, and published on the Commission Daily Calendar on June 15, 2001, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were necessary. On November 8, 2001, a late-filed protest was submitted to the Commission by UPRR. The late-filed protest was rejected for failing to state a reason regarding why it was not filed in a timely manner and UPRR was given the opportunity to refile the protest with a motion stating good cause. No further protests were received by the Commission. Given these developments, the Commission's RSCD recommends that a public hearing not take place and the application be granted.

This is an uncontested matter in which the decision grants the relief requested. Pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Findings of Fact

1. Notice of the Application was published in the Commission's Daily Calendar on May 25, 2001. The protest submitted by UPRR was rejected on November 16, 2001. A public hearing is not necessary.
2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct a railroad underpass at separated grade on Valley Avenue Extension at the track of UPRR to be referred to as CPUC Crossing No. 004-40.43-B.
3. During construction, train service will be diverted from the work area via a shoofly track. The shoofly track will be removed upon completion of the project.

4. Public convenience and necessity require the construction of the grade separation in the City of Pleasanton.

5. City is the lead agency for this project under CEQA, as amended.

6. The Commission is a responsible agency for this project and reviewed and considered the agency's EIR and Notice of Determination.

7. The City found that the project will have a significant effect on the environment and adopted mitigation measures as a condition of approval.

8. The Commission finds that the lead agency adopted feasible mitigation measures to eliminate or substantially lessen the impacts where possible to less-than-significant levels and we adopt the City's findings and mitigations for purposes of our approval.

9. The Commission finds that the City enumerated several significant benefits to reasonably override the unavoidable environment impacts associated with the project and we adopt the findings in the SOC for purposes of our approval.

Conclusion of Law

The Application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. The City of Pleasanton (City) is authorized to construct a railroad underpass at separated grade on Valley Avenue Extension at the track of the Union Pacific Railroad (UPRR) to be referred as CPUC Crossing No. 004-40.43-B, in the City of Pleasanton, Alameda County.

2. If residential use occurs in any central or east parcel prior to the completion of the grade separation, fencing shall be constructed along the UPRR

tracks through the project site to reduce the likelihood that school children will cross the tracks to get to the existing or proposed schools along Case Avenue.

3. Clearances shall be in accordance with the Commission's General Order (G.O.) 26-D.

4. Walkways shall conform to G.O. 118. Walkways adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.

5. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the parties. A copy of the agreement shall be filed by the City with the Commission's Rail Safety and Carriers Division (RSCD) prior to construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

6. Prior to construction, the City shall file with RSCD final construction plans, approved by UPRR.

7. The City will inform the RSCD Rail Crossing Engineering Section in writing within 30 days of the date of completion of the Project.

8. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

9. This application is granted as set forth above.

10. Application 01-05-045 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

APPENDIX A
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